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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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LITMAN LAW OFFICES, LTD			GELAGAY, SHEWAYE	
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CRYSTAL CITY STATION				
ARLINGTON, VA 22215			2137	

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/982,019	BUCK, BYRON	
	Examiner	Art Unit	
	Shewaye Gelagay	2133	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 11 May 2005.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quay/e*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-33 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    - 1: Certified copies of the priority documents have been received.
    - 2: Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3: Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Response to Arguments

1. This office action is in response to Applicant's amendment filed on May 11, 2005. Claims 1-33 have been amended. Claims 1-33 are pending.

### *Claim Objections*

2. Claim 6 is objected to because of the following informalities: the word "vender" in line 4 should be changed to "vendor". Appropriate correction is required.

### *Claim Rejections - 35 USC § 101*

3. In view of the amendment filed May 11, 2005, the Examiner withdraws the rejection of claims 23-33 under 35 U.S.C. 101.

### Response to Arguments

4. Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941

(Fed. Cir. 1992). In this case, the Examiner has argued the obviousness to combine O'Neal (U.S. Patent 5,987,440) with the teachings of Blumenau (U.S. Patent 6,529,652) since O'Neal does not explicitly use teach accepting and forwarding cookies. The Examiner asserts O'Neal teach a system of creating a trusted electronic communities allowing the members to protect their personal information on a computer network including the Internet. (Col. 2, lines 5-25)

Blumenau teaches accepting and forwarding cookies used to collect information regarding a panel member. (Col. 3, lines 39-67). One ordinary skill in the art at the time the invention was made would have been motivated to combine O'Neal with Blumenau in order to collect a cookie regarding access information and usage of the web sites by members as suggested by Blumenau (Col. 3, lines 39-41). Furthermore, it is well known in the art that cookies are used to collect information about personal information when a user visits a Web site.

The Applicant argues there is no motivation to combine the teachings of O'Neal and Blumenau with Merriman et al. (U.S. Patent 5,948,061) The Examiner disagrees. Merriman et al. teaches target advertising on the Internet using cookies to collect information and creating a cookie when a cookie does not exist. One ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of O'Neal and Blumenau with Merriman in order to identify a user by examining the object to determine the IP address and whether a cookie was received or not. (Col. 5, lines 13-15) This

way, if there was no cookies, the server process the user browser to write a cookie containing the unique identification number on the user's local drive.

The Applicant argues there no motivation to combine the teachings of O'Neal and Blumenau with Rowland et al. (U.S. Patent 5,848,412) The Examiner disagrees. Rowland et al. teaches user controlled information disclosure system to Web sites. (Abstract; Col. 5, lines 4-7 and Col. 6, lines 29-32) One ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of O'Neal and Blumenau with Rowland in order to in order to maintain an information database and access levels. (Abstract) This way, a user is able to control the information that is going to be disclosed to the vendor.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6-21, 23-24, 26-27 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neil et al. United States Letters Patent Number 5,987,440 in view of Blumenau United States Letters Patent Number 6,529,952 and in view of Shaffer et al. United States Letters Patent Number 6,748,426.

As per claim 1:

O'Neil et al. teach a method of allowing a user to browse the Web without reducing access and without privacy concerns, said method comprising: enabling the user to create a personal profile; (Col. 2, lines 19-22; Col. 6, lines 1-3 and Col. 7, lines 13-18)

determining if a site has executed a contract regarding privacy of the personal profile of the user; (Col. 2, lines 45-46)

making available an electronically-created file to the site, the file containing or enabling the site to access profile information about the user if the site has executed the contract regarding the privacy of the personal profile of the user; (Col. 2, lines 47-48)

removing or hiding the cookie if the site has not executed the contract regarding the privacy of the personal profile of the user; (Col. 2, lines 48-49) and

O'Neil et al. disclose different parties can use the virtual private network like law enforcement agencies, credit bureaus, landlords and others. (Col. 1, lines 43-46) O'Neil et al. further disclose a member can assign access rules to each piece of personal information before an individual piece of information can

be processed. In addition, O'Neil et al. teach information may be transport packaged with transitive privilege rules attached.

O'Neil et al. do not explicitly disclose the virtual private network site is a vendor web site; and accepting a cookie from Web sites that send cookies; and forwarding an electronically-created file to the vendor web site offering the vendor web site an opportunity to affirm the contract regarding privacy of the personal profile of the user if the vendor site has not executed the contract.

Blumenau in analogous art, however, discloses accepting a cookie from Web sites that send cookies; (Col. 3, lines 39-41 and Col. 4, lines 17-18)

forwarding an electronically-created file to the site offering the site an opportunity to affirm the contract if the site has not executed the contract. (Col. 4, lines 23-25)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method disclosed by O'Neil et al. to include accepting a cookie from Web sites that send cookies; and forwarding an electronically-created file to the site offering the site an opportunity to affirm the contract if the site has not executed the contract. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so as suggested by Blumenau, (Col. 3, lines 39-41) in order to collect cookie information and access information regarding usage of the web sites by members.

Both references do not explicitly disclose the virtual private network site is a vendor web site.

Shaffer et al. in analogous art, however, discloses a computerized information system for receiving, reading and accessing consumer data using a merchant server. (Col. 2, lines 18-43)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method disclosed by O'Neil et al. and Blumenau to include the virtual private network site is a vendor web site. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so as suggested by Shaffer et al. (Col. 1, lines 11-13) in order to provide a system that store, retrieve and link consumer information across the internet.

As per claim 2:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, O'Neil et al. further disclose a method wherein said enabling the user to create a profile step includes providing Web-based forms or providing software that queries the user. (Col. 2, lines 49-52)

As per claims 3 and 20:

O'Neil et al. and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses a method wherein said making available is accomplished by forwarding the electronically-created file to the site. (Col. 3, lines 48-51 and lines 65-67; Col. 4, lines 23-25)

As per claim 4:

O'Neil et al. and Shaffer et al. teach all the subject matter as discussed above. In addition, O'Neil et al. further disclose a method wherein said making available is accomplished by placing the electronically-created file on a hard drive of the user. (Col. 5, lines 52-55)

As per claims 6, 15, 19 and 23:

O'Neil et al. teach a method of acting as an intermediary between a user and a Web site, comprising:

enabling the user to create a personal profile; (Col. 2, lines 19-22; Col. 6, lines 1-3 and Col. 7, lines 13-18)

providing a contract addressing the privacy of the user to the Web site; (Col. 2, lines 13-16)

causing the contract addressing the privacy of the personal profile of the user to be executed by the Web site. (Col. 2, lines 47-48)

In addition O'Neil et al. further disclose when a request for a particular piece of information is required the community standards and the rule attached to that piece of information is checked. (Col. 2, lines 40-42). O'Neil et al. do not explicitly disclose causing the contract to be executed by the Web site.

O'Neil et al. do not explicitly disclose the virtual private network site is a vendor web site; and accepting a cookie from the vendor Web sites that send cookies.

Blumenau in analogous art, however, discloses accepting a cookie from Web sites that send cookies; (Col. 3, lines 39-41 and Col. 4, lines 17-18)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method disclosed by O'Neil et al. to include accepting a cookie from Web sites that send cookies. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so as suggested by Blumenau, (Col. 3, lines 39-41) in order to collect cookie information and access information regarding usage of the web sites by members.

Both references do not explicitly disclose the virtual private network site is a vendor web site.

Shaffer et al. in analogous art, however, discloses a computerized information system for receiving, reading and accessing consumer data using a merchant server. (Col. 2, lines 18-43)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method disclosed by O'Neil et al. and Blumenau to include the virtual private network site is a vendor web site. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so as suggested by Shaffer et al. (Col. 1, lines 11-13) in order to provide a system that store, retrieve and link consumer information across the internet.

As per claims 7 and 24:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, O'Neil et al. further disclose a method comprising:

providing data entry means to the user so that the user can provide a personal profile; (see Figure 25; Col. 7, lines 15-18) and providing the personal profile to the Web site if it has executed the site has executed the contract addressing the privacy of the personal profile of the user. (Col. 2, lines 47-48)

As per claim 8:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses a method wherein said providing the personal profile step includes providing an electronically-created file to the Web site. (Col. 3, lines 48-51 and lines 65-67; Col. 4, lines 23-25)

As per claim 9:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further disclose a method wherein said providing an electronically-created file step includes providing a unique user identifier code to the Web site, which the Web site can use to obtain the personal profile of the user. (Col. 6, lines 30-32)

As per claim 10:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses a method wherein said providing the personal profile to a Web site step includes:

receiving a request from the Web site for personal profile data meeting certain requirements; and (Col. 4, lines 5-7)

providing information to the Web site based on a conglomeration of data from multiple profiles responsive to the request. (Col. 3, lines 52-53; Col. 5, lines 35-40)

As per claim 11:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, O'Neil et al. further disclose a method wherein said providing the personal profile to a vendor Web site step includes providing a limited amount of data based on user-defined criteria. (Col. 2, lines 34-36)

As per claim 12:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, O'Neil et al. further disclose a method wherein said causing the contract to be executed step includes sending a message to the vendor Web site if it has not previously executed the contract addressing the privacy of the personal profile of the user. (Col. 2, lines 45-46)

As per claim 13:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, O'Neil et al. further disclose a method wherein said causing the contract to be executed step includes:

removing or hiding a cookie sent by the Web site if it has not previously executed the contract addressing the privacy of the personal profile of the user; (Col. 2, lines 48-49) and

sending a message to the Web site informing it that the cookie will not be available until it executes the contract addressing the privacy of the personal profile of the user. (Col. 2, lines 45-46)

As per claim 14:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses wherein said causing the contract to be executed step includes negotiating with the Web site at the outset of the application of the method. (Col. 5, lines 27-35)

As per claim 16:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses a method wherein said receiving personal profile step includes:

sending a cookie to the user; (Col. 3, lines 39-40) and  
receiving the personal profile or a code to obtain the personal profile. (Col. 3, lines 40-41)

As per claim 17:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses a method wherein said receiving the personal profile step includes:

sending a cookie to the user; (Col. 3, lines 39-40) and  
retrieving the personal profile or a code to obtain the personal profile from a hard drive of the user. (Col. 3, lines 40-41 and Col. 6, lines 30-32)

As per claim 18:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses wherein said receiving personal profile step includes:

requesting information based on certain demographic and other criteria of users; (Col. 6, lines 33-37) and

receiving data about the users. (Col. 3, lines 40-41)

As per claims 21 and 32:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses a system wherein said means to make available is means to place the electronically-created file on a hard drive of the user. (Col. 5, lines 52-55)

As per claim 26:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, O'Neil et al. further disclose means for allowing a user to input is located on one of a personal computer of the user and a centralized site. (Col. 2, lines 1-5 and Col. 5, lines 52-55)

As per claim 27:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses means to accept a cookie is located on one of a personal computer of the user and a centralized site. (Col. 3, lines 39-41 and Col. 4, lines 17-19),

As per claim 31:

O'Neil et.al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, Blumenau further discloses means to make available is means to forward the electronically-created file to the site. (Col. 3, lines 48-51 and lines 65-67; Col. 4, lines 23-25)

7. Claims 5, 22 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neil et al. United States Letters Patent Number 5,987,440 in view of Blumenau United States Letters Patent Number 6,529,952 in view of Shaffer et al. United States Letters Patent Number 6,748,426 and further in view of Merriman et al. United States Letters Patent Number 5,948,061.

As per claims 5, 22 and 33:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. In addition, O'Neil et al. further disclose causing a list of the cookies and the pseudo-cookies to be displayed at the request of a user. (Col. 1, lines 13-15; Col. 2, lines 34-38 and Col. 6, lines 54-55)

Neither of the references, however, explicitly disclose a method comprising: creating pseudo-cookies for sites that do not send cookies; and keeping track of the cookies and the pseudo-cookies.

Merriman et al. in analogous art, however disclose a method comprising: creating pseudo-cookies for sites that do not send cookies; (Col. 5, lines 21-29; Pseudo-cookies are interpreted as write cookie instruction when the browser has no cookie. This interpretation is given based the explanation given for pseudo cookies on the disclosure)

keeping track of the cookies and the pseudo-cookies; (Col. 5, lines 13-29)  
and

causing a list of the cookies and the pseudo-cookies to be displayed at the  
request of a user.

Therefore, it would have been obvious to a person having ordinary skill in  
the art at the time the invention was made to modify the method disclosed by  
O'Neil et al., Blumenau and Shaffer et al. to include creating pseudo-cookies for  
sites that do not send cookies; and keeping track of the cookies and the pseudo-  
cookies. This modification would have been obvious because a person having  
ordinary skill in the art would have been motivated to do so as suggested by  
Merriman et al., (Col. 5, lines 13-415) in order to identify a user by examining the  
object to determine the IP address and whether a cookie was received or not.

This way, if there was no cookies, the server process the user browser to write a  
cookie containing the unique identification number on the user's local drive.

8. Claims 25 and 28-30 are rejected under 35 U.S.C. 103(a) as being  
unpatentable over O'Neil et al. United States Letters Patent Number 5,987,440 in  
view of Blumenau United States Letters Patent Number 6,529,952 in view of  
Shaffer et al. United States Letters Patent Number 6,748,426 and further in view  
of Rowland et al. United States Letters Patent Number 5,848,412.

As per claims 25:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as  
discussed above. Neither of the references, however, explicitly disclose means  
for a vendor to make queries as to user input.

Rowland et al. in analogous art, however, disclose means for a vendor to make queries as to user input. (Col. 5, lines 4-7 and Col. 6, lines 29-32)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method disclosed by O'Neil et al., Blumenau and Shaffer et al. to include means for a vendor to make queries as to user input. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so as suggested by Rowland et al., (see Abstract) in order to maintain an information database and access levels. This way, a user is controlling the information disclosure to the vendor.

As per claim 28:

O'Neil et al., Blumenau and Shaffer et al. teach all the subject matter as discussed above. Neither of the references, however, explicitly disclose means for allowing a vendor to input information about the vendor or its products.

Rowland et al. in analogous art, however, disclose means for allowing a vendor to input information about the vendor or its products. (Col. 6, lines 30-49)

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method disclosed by O'Neil et al., Blumenau and Shaffer et al. to include means for allowing a vendor to input information about the vendor or its products. This modification would have been obvious because a person having ordinary skill in the art would have been motivated to do so as suggested by Rowland et al., (see Abstract) in order to maintain an information database and access levels. This way, a user is

controlling the information disclosure by negotiating a level limit to share information with the web site.

As per claim 29:

O'Neil et al., Blumenau, Shaffer et al. and Rowland et al. teach all the subject matter as discussed above. In addition, Rowland et al. further disclose a means for a user to make queries as to vendor input. (Col. 7, lines 1-3)

As per claim 30:

O'Neil et al., Blumenau, Shaffer et al. and Rowland et al. teach all the subject matter as discussed above. In addition, O'Neal et al. further disclose means for allowing a vendor to input is located on one of the site of the vendor and a centralized site. (Col. 2, lines 1-5 and Col. 5, lines 52-55)

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shewaye Gelagay whose telephone number is 571-272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decay can be reached on 571-272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shewaye Gelagay *SG*  
08/23/05

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